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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte TANYA L. SWARTZ, DMITRY V. ZHIYANOV,
GIRISH PREMCHANDRAN, GAGAN CHOPRA,
ARIF KURESHY, AHMAD MAHDI EL HUSSEINI,
JAYADEV PILLAI, and MISHA H. ST. LORANT

Appeal 2009-002614
Application 10/760,099[1]
Technology Center 2100

Before JEAN R. HOMERE, DEBRA K. STEPHENS, and
JAMES R. HUGHES, *Administrative Patent Judges*.

HOMERE, *Administrative Patent Judge*.

DECISION ON APPEAL[2]

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[1] Filed on January 16, 2004. The real party in interest is Microsoft Corp. (Br. 1.)

[2] The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the "MAIL DATE" (paper delivery mode) or the "NOTIFICATION DATE" (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

I. STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) (2002) from the Examiner's final rejection of claims 1 through 25. (Br. 1.) We have jurisdiction under 35 U.S.C. § 6(b) (2008).

We affirm-in-part.

Appellants' Invention

Appellants invented a method and system for customizing a software-implemented business process on a mobile computing device without modifying the source code. (Spec. 1, ll. 5-10.)

Illustrative Claim

Independent claim 1 further illustrates the invention as follows:

1. A method of customizing a software-implemented business process comprising:
   a) providing customized metadata defining entities;
   b) storing the customized metadata and data corresponding to the entities in a first data store;
   c) providing a subscription list of the entities, the subscription list being defined by subscription metadata stored in a subscription data store of a mobile computing device;
   d) sending the customized metadata corresponding to the entities identified in the subscription list to the mobile computing device; and
   e) storing the sent customized metadata in a second data store of the mobile computing device.

Prior Art Relied Upon

The Examiner relies on the following prior art as evidence of unpatentability:

Von Kaenel (hereinafter "Kaenel")	2004/0117358 A1	Jun. 17, 2004

Rejection on Appeal

The Examiner rejects claims 1 through 25 under 35 U.S.C. § 102(e) as being anticipated by Kaenel.

Appellants' Contentions

Appellants contend that Kaenel's disclosure of utilizing metadata to locate, retrieve, and render data for client software does not teach "providing a subscription list of the entities, the subscription list being defined by subscription metadata stored in a subscription data store of a mobile computing device," as recited in independent claim 1. (Br. 5-6.) Appellants also argue that Kaenel's disclosure of a distributing computing environment and corresponding data stores does not teach the claimed "subscription data store of a mobile computing device." (*Id.* at 6.) Further, Appellants generally allege that Kaenel's disclosure fails to teach "sending the customized metadata corresponding to the entities identified in the subscription list to the mobile computing device," and "storing the sent customized metadata in a second data store of the mobile computing device," as recited in independent claim 1. (*Id.*)

Examiner's Findings and Conclusions

The Examiner finds that Kaenel's figure 15 depicts generating and storing metadata in a loading system and corresponding data stores. (Ans. 9.) In particular, the Examiner finds that Kaenel's figure 15 depicts a table that contains entities (e.g., Acme Corp., ABC Corp., XYZ Inc., etc.) and metadata (e.g., building, address, city, etc.) and, therefore, teaches storing data describing other data. (*Id.* at 9-10.) Further, the Examiner finds that Kaenel's disclosure of creating and storing metadata utilizing Extensible Markup Language ("XML") or other formats teaches the claimed steps of

"providing," "sending," and "storing" customized metadata in a mobile computing device. (*Id.* at 10.)

II. ISSUE

Have Appellants shown that the Examiner erred in finding that Kaenel anticipates independent claim 1? In particular, the issue turns on whether Kaenel teaches:

(a) "providing a subscription list of the entities, the subscription list being defined by subscription metadata stored in a subscription data store of a mobile computing device," as recited in independent claim 1;

(b) "sending the customized metadata corresponding to the entities identified in the subscription list to the mobile computing device," as recited in independent claim 1; and

(c) "storing the sent customized metadata in a second data store of the mobile computing device," as recited in independent claim 1.

III. FINDINGS OF FACT

The following Findings of Fact ("FF") are shown by a preponderance of the evidence.

Kaenel

1. Kaenel generally relates to providing access to spatial data and, in particular, to utilizing spatial or geospatial information to explore, analyze, visualize, and communicate spatial relationships. (Abst.; 1: para. [0006].) Kaenel's spatial system provides access to enterprise data from enterprise data stores and dynamically generates spatially referenced data utilizing client software. (10: para. [0248].)

2. Kaenel's figure 15 depicts a distributing computing environment (1500), whereby client software or personal computer ("PC") (1590) may send a request for data to a server system (1530). (18: para. [0324].) Further, Kaenel discloses that the distributing computing environment includes both a data store (1560) and a metadata store (1570). (*Id.*)

3. Additionally, Kaenel's figure 15 depicts the client software or PC (1590) requesting to view data (1512) in the server system (1530), whereby the server system (1530) utilizes metadata stored in the metadata store (1570) to locate, retrieve, and render data for the client software or PC (1590). (19: para. [0329].) Kaenel discloses that the requested data contains metadata that includes information, such as the name of the data layer as it will be presented in the client software or PC (1590). (*Id.*)

4. Kaenel's figure 16A depicts data preparation. (19: para. [0333].) In step (1620), Kaenel discloses uploading customer data (1613a) and storing such data as business data (1613b) in spatial data store (1660). (*Id.* at para. [0337].) Kaenel discloses utilizing the business data (1613b) and coordinates (1645b) to create a spatially referenced data layer view (1690). (*Id.*) Subsequently, Kaenel discloses creating metadata and storing the metadata in a metadata store (1670). (*Id.*) Further, Kaenel discloses transmitting the layer view over a network to client software (1600) and displaying the view on the client software (1600). (*Id.*)

5. Kaenel discloses updating spatial data in real time utilizing the following: a batch process, input from a user entering data into a software user interface, software that generates data as part of its processing, and a

sensor device (e.g., smoke detector) or location sensing device (e.g., GPS enabled device) that generates data. (21: para. [0354].)

IV. ANALYSIS

Claim 1

Independent claim 1 recites, in relevant part:

> 1) providing a subscription list of the entities, the subscription list being defined by subscription metadata stored in a subscription data store of a mobile computing device;
> 2) sending the customized metadata corresponding to the entities identified in the subscription list to the mobile computing device; and
> 3) storing the sent customized metadata in a second data store of the mobile computing device.

As detailed in the Findings of Fact section, Kaenel discloses providing access to enterprise or business data in order to generate spatially referenced data utilizing client software. (FF 1.) In particular, Kaenel discloses a client PC and associated software that, upon requesting data from a computing environment, may retrieve data and metadata stored in a data store and metadata store, respectively. (FF 2-3.) Further, Kaenel discloses that the computing environment prepares data by uploading business data (e.g., a list of businesses) to the data store, and utilizing the uploaded business data and corresponding coordinates to create a reference data layer view. (FF 4.) Subsequently, Kaenel discloses creating and storing metadata in the metadata store. (*Id.*) Additionally, based on a request from a client PC, Kaenel discloses that the server system utilizes metadata stored in the metadata store to locate, retrieve, and render metadata that includes information pertaining to the data layer view. (FF 3.)

We find that Kaenel's disclosure teaches a computer system that employs a server and both a data store and a metadata store to process database query operations. We also find that Kaenel's computer system uploads a list of entities to the data store, creates a customized data view that references a subset of metadata, sends the customized data view and subset of metadata to the metadata store, and stores the customized data view and subset of metadata therein. Further, based on a request from a client computer, Kaenel's disclosure teaches that the server works in conjunction with the metadata store to locate, retrieve, and send the customized data view and corresponding metadata to the client computer.

However, since independent claim 1 only recites "a mobile computing device," we find that the claim does not explicitly preclude performing the method steps within a single computing device. Consequently, we find that "a mobile computing device" may be broadly, but reasonably construed as any computer because the type and/or size of the computer does not affect the functionality of the claim limitations. Therefore, we find that Kaenel's disclosure of a subset of metadata that identifies a list of entities corresponding to a subset of metadata stored in the metadata store of Kaenel's computer system, amounts to "providing a subscription list of the entities, the subscription list being defined by subscription metadata stored in a subscription data store of a mobile computing device," as recited in independent claim 1.

Further, we find that Kaenel's disclosure of the computer system sending the customized data view that corresponds to a list of entities identified in the subset of metadata to the metadata store teaches "sending the customized metadata corresponding to the entities identified in the

subscription list to the mobile computing device," as recited in independent claim 1. Additionally, we find that Kaenel's disclosure of storing the customized data view in the metadata store teaches "storing the sent customized metadata in a second data store of the mobile computing device," as recited in independent claim 1. It follows that Appellants have not shown that the Examiner erred in finding that Kaenel anticipates independent claim 1.

Claim 2

Appellants contend that Kaenel's disclosure of printing multiple data layers is completely unrelated to the software-implemented business process of dependent claim 2. (Br. 7.) In particular, Appellants argue that there is no connection between Kaenel's disclosure of printing multiple data layers and the data stores depicted in figure 15. (*Id.*) Therefore, Appellants allege that Kaenel does not teach "sending the data corresponding to the entities identified in the subscription list to the mobile computing device," and "storing the sent data in the second data store," as recited in dependent claim 2. (*Id.*) We do not agree.

As set forth above, we find that Kaenel teaches sending the customized data view that corresponds to a list of entities identified in the subset of metadata to the metadata store and, further, storing the customized data view therein. Consequently, we find that Kaenel's computer system teaches sending any data corresponding to entities identified in the subset of metadata to the metadata store and, further, storing such data therein. Thus, we find that Kaenel teaches the disputed limitation. It follows that Appellants have not shown that the Examiner erred in finding that Kaenel anticipates dependent claim 2.

Claims 3, 4, 6 through 10, 12 through 15, and 17 through 25

Appellants do not set forth any substantive arguments, but rather make general allegations that Kaenel's cited disclosure does not teach the limitations of independent claims 9, 15, and 19, and dependent claims 3, 4, 6 through 8, 10, 12 through 14, 17, 18, and 20 through 25. (Br. 7-14.) Appellants are reminded that a statement that merely points out what the claim recites will not be considered as an argument for separate patentability of a claim. *See* 37 C.F.R. § 41.37(c)(1)(vii). Therefore, Appellants' arguments are unpersuasive. It follows that Appellants have not shown that the Examiner erred in finding that Kaenel anticipates independent claims 9, 15, and 19, and dependent claims 3, 4, 6 through 8, 10, 12 through 14, 17, 18, and 20 through 25.

Claims 5, 11, and 16

Appellants contend that Kaenel's disclosure of utilizing a device that generates spatial data does not teach "the mobile computing device is selected from a group consisting of a mobile phone and a personal digital assistant (PDA)," as recited in dependent claim 5. (Br. 8.) Further, Appellants argue that Kaenel's device that generates spatial data does not include the claimed "subscription list" or "subscription data store." (*Id.*) Additionally, Appellants allege that Kaenel's device that generates spatial data does not receive or store customized metadata corresponding to entities identified in the subscription list. (*Id.*) We agree.

As detailed in the Findings of Fact section above, Kaenel discloses updating spatial data utilizing a sensor device (e.g., smoke detector) or location sensing device (e.g., GPS enabled device) that is capable of generating data. (FF 5.) We find that Kaenel's disclosure teaches a GPS

enabled device that generates data. However, we agree with Appellants that Kaenel's disclosure falls short of teaching or suggesting a mobile phone or PDA. Although Kaenel discloses a GPS enabled device, an ordinarily skilled artisan would view Kaenel's disclosure as a mere suggestion that the GPS enabled device may be a mobile phone or PDA. While such a suggestion might be adequate to show obviousness, it is insufficient to show anticipation. Absent a showing that Kaenel expressly or inherently describes a mobile phone or PDA, we find that the Examiner has improperly relied upon Kaenel's disclosure to teach the disputed limitation.

Since Appellants have shown at least one error in the Examiner's rejection of dependent claim 5, we need not reach the merits of Appellants' other arguments. It follows that Appellants have shown that the Examiner erred in finding that Kaenel anticipates dependent claim 5.

Because dependent claims 11 and 16 also recite the limitation discussed above, we find that Appellants have also shown error in the Examiner's rejection of these claims for the reasons set forth in our discussion of dependent claim 5.

V. CONCLUSIONS OF LAW

1. Appellants have not shown that the Examiner erred in rejecting claims 1 through 4, 6 through 10, 12 through 15, and 17 through 25 as being anticipated under 35 U.S.C. § 102(e).

2. Appellants have shown that the Examiner erred in rejecting claims 5, 11, and 16 as being anticipated under 35 U.S.C. § 102(e).

VI. DECISION

1. We affirm the Examiner's decision to reject claims 1 through 4, 6 through 10, 12 through 15, and 17 through 25 as being anticipated under 35 U.S.C. § 102(e).

2. However, we reverse the Examiner's decision to reject claims 5, 11, and 16 as being anticipated under 35 U.S.C. § 102(e).

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a).

AFFIRMED-IN-PART

Vsh

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